

BILL NO. S-8 0-12-19

SPECIAL ORDINANCE NO. S- 165-80

AN ORDINANCE authorizing the City of Fort Wayne to issue its "Economic Development First Mortgage Revenue Bonds, Series 1980 (Central-Walter-Sunbelt )" and approving other actions in respect thereto.

WHEREAS, the Fort Wayne Economic Development Commission has rendered its Project Report for the Central-Walter-Sunbelt Project regarding the financing of proposed economic development facilities for Central-Walter-Sunbelt and the Fort Wayne Planning Commission has commented favorably thereon; and

WHEREAS, the Fort Wayne Economic Development Commission conducted a public hearing on December 9, 1980 , and also adopted a Resolution on December 9, 1980 , which Resolution has been transmitted hereto, finding that the financing of certain economic development facilities of Central-Walter-Sunbelt complies with the purposes and provisions of I.C. 18-6-4.5 and that such financing will be of benefit to the health and welfare of the City of Fort Wayne and its citizens; and

WHEREAS, the Fort Wayne Economic Development Commission has heretofore approved and recommended the adoption of this form of Ordinance by this Common Council and has approved the forms of and has transmitted for approval by the Common Council the Loan Agreement, Note and Mortgage and Indenture of Trust; now therefore,

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA, THAT:

SECTION 1. It is hereby found that the financing of the economic development facilities referred to in the Loan Agreement approved by the Fort Wayne Economic Development Commission and presented to this Common Council, the issuance and sale of revenue bonds, the loan of the proceeds of the revenue bonds to Central-Walter-Sunbelt for the acquisition and construction of such facilities and the equipping thereof, the

payment of the revenue bonds by the note payments of Central-Walter-Sunbelt under the Loan Agreement and Note, and the securing of said bonds by the mortgaging of such facilities to the Trustee under the Mortgage and Indenture of Trust complies with the purposes and provisions of I.C. 18-6-4.5 and will be of benefit to the health and welfare of the City of Fort Wayne and its citizens.

SECTION 2. The final forms of the Loan Agreement, Note and Mortgage and Indenture of Trust approved by the Fort Wayne Economic Development Commission are hereby approved and all such documents (herein collectively referred to as the "Financing Agreement" referred to in I.C. 18-6-4.5), shall be incorporated herein by reference and shall be inserted in the minutes of the Common Council and kept on file by the Clerk.

SECTION 3. The City of Fort Wayne shall issue its Economic Development First Mortgage Revenue Bonds, Series 1980 ( Central-Walter-Sunbelt ), in the total principal amount of One Million Seven Hundred Thousand Dollars (\$1,700,000.00) for the purpose of procuring funds to pay the costs of acquisition, construction and equipping of the economic development facilities as more particularly set out in the Mortgage and Indenture of Trust and Loan Agreement incorporated herein by reference which bonds will be payable as to principal, premium, if any, and interest from the note payments made by Central-Walter-Sunbelt under the Loan Agreement and Note or as otherwise provided in the above described Mortgage and Indenture of Trust. The bonds shall never constitute a general obligation of, an indebtedness of, or a charge against the general credit of the City of Fort Wayne.

SECTION 4. The Mayor, Clerk and/or Controller are authorized and directed to sell such bonds to the purchasers thereof at a rate of interest per annum on the bonds not to exceed 70% percent of the prime commercial lending rate announced by Crocker National Bank, San Francisco, CA , and at a price not less than 100 percent of the principal amount thereof.

SECTION 5. The Mayor and Clerk are authorized and directed to execute the documents constituting the Financing Agreement herein on behalf of the City and any other document which may be necessary or desirable to consummate the transaction, including the bonds authorized herein. The signatures of the Mayor and Clerk on the bonds may be facsimile signatures. The Clerk is authorized to arrange for delivery of such bonds to the Trustee named in the Mortgage and Indenture of Trust, payment for which will be made to the Trustee named in the Mortgage and Indenture of Trust and delivered by the Trustee to the purchasers thereof.

SECTION 6. The provisions of this Ordinance and the Mortgage and Indenture of Trust securing the bonds shall constitute a contract binding between the City of Fort Wayne and the holder of the Economic Development First Mortgage Revenue Bonds, Series 1980 (Central-Walter-Sunbelt ), and after the issuance of said bonds, this Ordinance shall not be repealed or amended in any respect which would adversely affect the rights of such holders so long as any of said bonds or the interest thereon remains unpaid.

SECTION 7. This Ordinance shall be in full force and effect from and after its passage and signing by the Mayor.



COUNCILMAN

APPROVED AS TO FORM AND  
LEGALITY DECEMBER 8 , 1980.



CAROL A. ANGEL  
Associate City Attorney

Read the first time in full and on motion by Stan,  
seconded by Ernest, and duly adopted, read the second time,  
by title and referred to the Committee Finance (and the City  
Plan Commission for recommendation) and Public Hearing to be held after  
due legal notice, at the Council Chambers, City-County Building, Fort Wayne,  
Indiana, on 12-9-80, the 19 day of December, at 10:00 o'clock A.M., E.S.T.

DATE: 12-9-80

Charles W. Westerman  
CHARLES W. WESTERMAN  
CITY CLERK

Read the third time in full and on motion by Stan,  
seconded by B. Eshard, and duly adopted, placed on its  
passage. PASSED 100-0 by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT	TO-WIT:
<u>TOTAL VOTES</u>	<u>9</u>	<u>0</u>			
<u>BURNS</u>	<u>X</u>				
<u>EISBART</u>	<u>X</u>				
<u>GiaQUINTA</u>	<u>X</u>				
<u>NUCKOLS</u>	<u>X</u>				
<u>SCHMIDT, D.</u>	<u>X</u>				
<u>SCHMIDT, V.</u>	<u>X</u>				
<u>SCHOMBURG</u>	<u>X</u>				
<u>STIER</u>	<u>X</u>				
<u>TALARICO</u>	<u>X</u>				

DATE: 12-23-80

Charles W. Westerman  
CHARLES W. WESTERMAN - CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne,  
Indiana, as (ZONING MAP) (GENERAL) (ANNEXATION) (SPECIAL)  
(APPROPRIATION) ORDINANCE (RESOLUTION) No. 1-165-80  
on the 23rd day of December, 1980.

ATTEST:

(SEAL)

Charles W. Westerman  
CHARLES W. WESTERMAN - CITY CLERK

Virian G. Schmidt  
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on  
the 24th day of December, 1980, at the hour of  
10:00 o'clock A M., E.S.T.

Charles W. Westerman  
CHARLES W. WESTERMAN - CITY CLERK

Approved and signed by me this 24th day of December  
1980, at the hour of 10:30 o'clock A M., E.S.T.

Winfield C. Moses, Jr.  
WINFIELD C. MOSES, JR.  
MAYOR

BILL NO. S-80-12-19

REPORT OF THE COMMITTEE ON FINANCE

WE, YOUR COMMITTEE ON FINANCE TO WHOM WAS REFERRED AN  
ORDINANCE authorizing the City of Fort Wayne to issue its "Economic  
Development First Mortgage REvenue Bonds, Series 1980  
(Central-Walter-Sunbelt)" and approving other actions  
in respect thereto

HAVE HAD SAID ORDINANCE UNDER CONSIDERATION AND BEG LEAVE TO REPORT  
BACK TO THE COMMON COUNCIL THAT SAID ORDINANCE do PASS.

JAMES S. STIER, CHAIRMAN

MARK GIAQUINTA, VICE CHAIRMAN

BEN EISBART

PAUL M. BURNS

DONALD J. SCHMIDT

*Perkin*

*OShannon*

*Burkhardt*

*Paul M. Burns*

*Mark E. Giaquinta*

DATE 6/19/80

CONCURRED IN

CHARLES W. WESTERMAN, CITY CLERK

RESOLUTION

FORT WAYNE ECONOMIC DEVELOPMENT COMMISSION  
FORT WAYNE, INDIANA

BE IT RESOLVED BY THE FORT WAYNE ECONOMIC DEVELOPMENT  
COMMISSION THAT:

Section 1. It finds that the proposed financing of economic development facilities referred to in the form of the Financing Agreement (as defined in the Minutes) presented to this meeting for Central-Walter-Sunbelt complies with the purposes and provisions of I.C. 18-6-4.5 and will be of benefit to the health and welfare of the City of Fort Wayne, and its citizens.

Section 2. The final forms of First Supplemental and Amendatory Loan Agreement, Note, First Supplemental and Amendatory Mortgage and Indenture of Trust, Guaranty Agreement and a proposed form of Ordinance for the Common Council presented to this meeting are hereby approved.

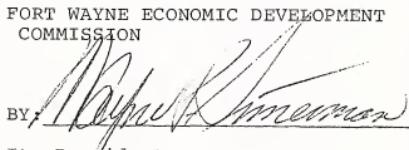
Section 3. The proposed economic development facilities will not have an adverse competitive effect on any similar facilities already under construction or in operation in the City of Fort Wayne, Indiana.

Section 4. The Secretary shall initial and then insert a copy of the forms of documents approved by this Resolution in the Minute Book of this Commission.

Section 5. A copy of this Resolution and the other form of documents approved by this Resolution and the proposed form of Ordinance shall be presented in their final form by Counsel for the Economic Development Commission or by any member of this Commission to the Clerk for presentation to the Common Council.

Adopted this 9th day of December, 1980.

FORT WAYNE ECONOMIC DEVELOPMENT  
COMMISSION

BY:   
Its President

ATTEST:



Its Secretary

Admn. Appr. \_\_\_\_\_

DIGEST SHEETTITLE OF ORDINANCE Special2-80-12-19DEPARTMENT REQUESTING ORDINANCE Economic Development CommissionSYNOPSIS OF ORDINANCE Approval of final closing papers and issue of\$1,700,000.00 EDC bonds on Central-Walter-Sunbelt for a 230 roomhotel with restaurants, meeting rooms, swimming pool, game roomarea, recreational equipment, parking areas and driveways locatedat 300 East Washington Boulevard, Fort Wayne, Indiana.EFFECT OF PASSAGE Reconstruction of above hotel.EFFECT OF NON-PASSAGE None of the above.MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS) NoneASSIGNED TO COMMITTEE (PRESIDENT) Jenapse

## GUARANTY AGREEMENT

This Guaranty Agreement ("Agreement") made and entered into as of December 1, 1980, by and between Central Life Assurance Company, an Iowa corporation ("Central"), Lartnec Investment Co., an Iowa corporation ("Lartnec"), Sunbelt Hospitality Corporation, a Tennessee corporation ("Sunbelt"), and Central-Walter-Sunbelt, an Indiana general partnership ("Central-Walter-Sunbelt"), jointly and severally (collectively the "Guarantor"), and American Fletcher National Bank and Trust Company ("Trustee"), Indianapolis, Indiana, together with any successor trustee, at the time serving as such under the Indenture (as hereinafter defined);

### WITNESSETH:

WHEREAS, the City of Fort Wayne ("Issuer") has the authority pursuant to Indiana Code, Title 18, Article 6, Chapter 4.5, to issue revenue bonds of the Issuer for the purpose of financing the acquisition, renovation, construction, installation and equipping of economic development facilities; and

WHEREAS, the Issuer has authorized the issuance of an additional \$1,700,000 of revenue bonds of the Issuer pursuant to the First Supplemental and Amendatory Mortgage and Indenture of Trust described below for the purpose of completing the financing of the cost of acquiring, renovating, constructing, installing and equipping of economic development facilities ("Project") and the aforesaid issue of bonds issued in 1980 is hereinafter referred to as "Bonds"; and

WHEREAS, the economic development facilities being financed in part from the proceeds of the aforesaid issue of Bonds of the Issuer are located in the City of Fort Wayne, Indiana, and such facilities are being financed in part by an additional loan to Central-Walter-Sunbelt pursuant to a First Supplemental and Amendatory Loan Agreement between the Issuer and Central-Walter-Sunbelt dated as of the date hereof which supplements and amends a Loan Agreement, dated as of September 1, 1979, between the same parties (collectively "Loan Agreement"); and

WHEREAS, the Bonds are to be issued under and pursuant to a First Supplemental and Amendatory Mortgage and Indenture of Trust, dated as of the date hereof by and among the Issuer, Central-Walter-Sunbelt and Trustee which supplements and amends a Mortgage and Indenture of Trust, dated as of September 1, 1979 by and among the same parties (collectively "Indenture"); and

WHEREAS, the entities constituting the Guarantor are desirous that the Issuer issue the Bonds and apply the proceeds as aforesaid for Central-Walter-Sunbelt, of which Lartnec and Sunbelt are general partners, and are willing to enter into this Agreement in order to enhance the marketability of the Bonds and thereby achieve interest cost and other savings for Central-Walter-Sunbelt, and as an inducement to the purchase of the Bonds by all who shall at any time become holders of the Bonds, the Guarantor does hereby, subject to the terms hereof, covenant and agree with the Trustee as follows:

## ARTICLE I

### Representations and Warranties of the Guarantor

Section 1.1. Central represents and warrants that it is an Iowa corporation and is in good standing in Iowa. Lartnec represents and warrants that it is an Iowa corporation and is in good standing in Iowa. Sunbelt represents and warrants that it is a Tennessee corporation and is in good standing in Tennessee. Central-Walter-Sunbelt represents and warrants that it is an Indiana general partnership and is in good standing in Indiana. The entities constituting the Guarantor severally do hereby represent and warrant that the execution and delivery by them of this Agreement and the agreements herein contained do not contravene or constitute a default under any provision of any agreement, indenture or other commitment to which any such entity is a party or by which any such entity is or may be bound; and this Agreement constitutes a valid, legal and binding obligation of each of the entities constituting the Guarantor, enforceable against each of the entities constituting the Guarantor in accordance with its terms, except to the extent that enforcement hereof may be limited by laws and equitable principles relating to bankruptcy, insolvency and creditors' rights generally.

## ARTICLE II

### Covenants and Agreements

Section 2.1. The entities constituting the Guarantor hereby, jointly and severally, for themselves, their successors and assigns, unconditionally guarantee to the Trustee for the benefit of the holders at any time and from time to time of the Bonds (a) the full and prompt payment of the principal of and any premium on each Bond when and as the same shall become due, whether at the stated maturity thereof, by acceleration, call for redemption or otherwise, and (b) the full and prompt payment of any interest on each Bond when and as the same shall become due; and agrees, in the event of any failure of the

Issuer promptly to make such payments of principal, premium, if any, or interest, to make such payments to the Trustee for the benefit of the then holders of the Bonds.

All payments by the entities constituting the Guarantor shall be paid in lawful money of the United States of America at the trust office of the Trustee. Each and every default in payment of the principal of, premium, if any, or interest on any Bond shall give rise to a separate cause of action hereunder, and separate suits may be brought hereunder as each cause of action arises.

Section 2.2. Subject to Section 2.9 hereof, the obligations of the entities constituting the Guarantor under this Agreement shall be absolute and unconditional and shall remain in full force and effect until the entire principal of, premium, if any, and interest on the Bonds shall have been paid or duly provided for in accordance with the provisions of the Indenture and until such payment or provision shall have been made, shall not be affected, modified or impaired upon the happening from time to time of any event, including, without limitation, any of the following, whether or not with notice to or the consent of the Guarantor:

(a) the waiver, compromise, settlement, release or termination of any or all of the obligations, covenants or agreements of the Issuer under the Indenture;

(b) the failure to give notice to the Guarantor of the occurrence of a default under the terms and provisions of the Bonds, this Agreement, the Loan Agreement or the Indenture;

(c) the transfer, assignment or mortgage or the purported transfer, assignment or mortgage of all or any part of the interest of the Issuer or Central-Walter-Sunbelt in the Project or any failure of title with respect to the interest of Central-Walter-Sunbelt in the Project or the invalidity, unenforceability or termination of the Loan Agreement;

(d) the waiver, compromise, settlement, release or termination of the payment, performance or observance by the Issuer or Central-Walter Sunbelt of any of the obligations, covenants or agreements of any of them contained in the Indenture, the Bonds, the Loan Agreement or this Agreement;

(e) the extension of the time for payment of any principal of, premium, if any, or interest on any Bond owing or payable on such Bond or under this Agreement or of the time for performance of any other obligations, covenants or agreements under or arising out of the Indenture or this Agreement or the extension or the renewal of either thereof;

(f) the modification or amendment (whether material or otherwise) of any obligation, covenant or agreement set forth in the Loan Agreement or the Indenture;

(g) the taking or the omission of any of the actions referred to in the Indenture or any actions under this Agreement;

(h) any failure, omission, delay or lack on the part of the Issuer or the Trustee to enforce, assert or exercise any right, power or remedy conferred on the Issuer or the Trustee in this Agreement, the Loan Agreement or the Indenture, or any other act or acts on the part of the Issuer, the Trustee or any of the holders at any time or from time to time of the Bonds;

(i) the voluntary or involuntary liquidation, dissolution, sale or other disposition of all or substantially all the assets, marshalling of assets and liabilities, receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization, arrangement, composition with creditors or readjustment of, or other similar proceedings affecting the entities constituting the Guarantor, the Issuer or any subsequent user of the project or any of the assets of any of them, or any allegation or contest of the validity of this Agreement or the Loan Agreement in any such proceeding or the disaffirmance of the Loan Agreement or this Agreement in any such proceeding;

(j) to the extent permitted by law, the release or discharge of any or all of the entities constituting the Guarantor from the performance or observance of any obligation, covenant or agreement contained in this Agreement by operation of law;

(k) the default or failure of any or all of the entities constituting the Guarantor fully to perform any of its obligations set forth in this Agreement; or

(l) the lack of authority of any individual executing, the nonbinding status of, or the invalidity or

unenforceability of any of the Bonds or the interest coupons appertaining thereto, if any, or any limitations on the liability of the Issuer thereunder.

The entities constituting the Guarantor hereby unconditionally waive diligence, presentment, protest, notice of dishonor and notice of default of the payment of any amount at any time payable by the Issuer under or in connection with the Bonds.

Section 2.3. No set-off, counterclaim, reduction or diminution of any obligation, or any defense of any kind or nature which the entities constituting the Guarantor have or may have against the Issuer or the owner of the Project or the Trustee shall in any way affect the unconditional obligation of the entities constituting the Guarantor set forth in Section 2.1 hereof, other than as specified in Section 2.9 hereof.

Section 2.4. In the event of a default in payment of the principal of, or premium, if any, on any Bond when and as the same shall become due, whether at the stated maturity thereof, by acceleration or call for redemption or otherwise or upon the occurrence of an event of default under the Indenture in the payment of any interest on any Bond when and as the same shall become due, the Trustee may, and if requested so to do by the holder of the Bonds shall, proceed hereunder directly against the entities constituting the Guarantor under this Agreement or any of them.

Section 2.5. The entities constituting the Guarantor hereby expressly waive notice, in writing or otherwise, from the Trustee or the holders at any time or from time to time of any of the Bonds, of their acceptance and reliance on this Agreement. The entities constituting the Guarantor agree to pay all costs, expenses and fees, including all reasonable attorneys' fees, which may be incurred by the Trustee in enforcing or attempting to enforce this Agreement following any default on the part of the Guarantor hereunder, whether the same shall be enforced by suit or otherwise.

Section 2.6. The entities constituting the Guarantor will keep proper books of record and account and will furnish to the Trustee, upon its request, financial statements based on each such Guarantor's fiscal year.

Section 2.7. This Agreement is entered into by the entities constituting the Guarantor for the benefit of the holders from time to time of the Bonds, all of whom shall be entitled to enforce performance and observance of this Agreement and of the guarantees and other provisions herein contained to the same extent as if they were parties hereto. For

the benefit of the holders of the Bonds from time to time outstanding, the Trustee hereby accepts the trusts imposed on it by this Agreement.

Section 2.8. The terms of this Agreement may be enforced as to any one or more breaches either separately or cumulatively.

Section 2.9. Anything in this Agreement to the contrary notwithstanding, a payment by the Issuer or the entities constituting the Guarantor to the Trustee of any item contemplated by Section 2.1 of this Agreement to be paid shall constitute a full and complete discharge and release of the entities constituting the Guarantor of the obligations under this Agreement with respect to said item, but only with respect to said item, and after any such payment shall be made to the Trustee, the entities constituting the Guarantor shall not be liable for, or be required or obligated to see to, the application or disposition of such payment by the Trustee.

Section 2.10. In the event the moneys in the Construction Fund (as defined in the Loan Agreement) available for payment of the Costs of Construction (as defined in the Loan Agreement) should not be sufficient to pay the Costs of Construction (as defined in the Loan Agreement) in full, the entities constituting the Guarantor shall pay that portion of the Costs of Construction (as defined in the Loan Agreement) in excess of the moneys available therefor in the Construction Fund (as defined in the Loan Agreement) and cause such moneys to be expended to complete the Project. The entities constituting the Guarantor agree that if after the exhaustion of moneys in the Construction Fund (as defined in the Loan Agreement) the entities constituting the Guarantor should pay any portion of the Costs of Construction (as defined in the Loan Agreement) pursuant to the provisions of this Section, they shall not be entitled to any reimbursement therefor from Issuer or from Trustee or from the holders of any of the Bonds, nor shall they be entitled to any diminution of the amounts payable hereunder.

### ARTICLE III

#### Notice and Service of Process, Pleadings and Other Papers

Section 3.1. Each entity constituting the Guarantor covenants that it designates James P. Pion, 300 East Washington Boulevard, Fort Wayne, Indiana 46802, as its resident agent for service of process, and if that agent shall cease to act, it designates the Secretary of State of the State of Indiana, as

its agent upon whom may be served all process, pleadings, notices or other papers which may be served upon it as one of the entities constituting the Guarantor as a result of any of its obligations under this Agreement.

Section 3.2. Any notice, process, pleadings or other papers served upon any of the foregoing agents shall, at the same time, be sent by registered mail to President, Sunbelt Hospitality Corporation, 4646 Poplar Avenue, Suite 335, Memphis, Tennessee 38117, to Central Life Assurance Company, 611 Fifth Avenue, Des Moines, Iowa 50306, Attention: Treasurer, and to Lartnec Investment Co., 611 Fifth Avenue, Des Moines, Iowa 50306, Attention: Treasurer or such other addresses as may be furnished by the entities constituting the Guarantor to the Trustee in writing. The right to receive notice hereunder is expressly subject to the limitations set forth in Section 4.3 hereof.

#### ARTICLE IV

##### Miscellaneous

Section 4.1. Central-Walter-Sunbelt and the Trustee hereby agree that they will not enter into any amendment, change, modification, alteration or termination of the Indenture which would in any way increase the obligations of the entities constituting the Guarantor under this Agreement without obtaining the prior written consent of the entities constituting the Guarantor.

Section 4.2. The obligations of the entities constituting the Guarantor hereunder shall arise absolutely and unconditionally on the issuance, sale and delivery of the Bonds by the Issuer.

Section 4.3. No remedy herein conferred upon or reserved to the Trustee hereunder is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default, omission or failure of performance hereunder shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Trustee to exercise any remedy reserved to it in this Agreement, it shall not be necessary to give any notice.

In the event any provision contained in this Agreement should be breached by any party and thereafter duly waived by

the other party so empowered to act, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder. No waiver, amendment, release or modification of this Agreement shall be established by conduct, custom or course of dealing, but solely by an instrument in writing duly executed by the parties thereto under duly authorized by this Agreement.

Section 4.4. Notwithstanding anything therein to the contrary, if the entities constituting the Guarantor shall assume any of the obligations of the owner of the Project under the Loan Agreement, they shall have all the rights and obligations of any such owner, and it does not by virtue of this Agreement waive any such rights or causes of action any owner may or would have under the Loan Agreement; provided, however, that the enforcement or attempted enforcement of any such rights or causes of action by the entities constituting the Guarantor shall not affect the unconditional nature of the guarantee under this Agreement which shall remain enforceable in accordance with its terms.

Section 4.5. The entities constituting the Guarantor shall, to the extent of any payments made by it pursuant to their guarantee contained in this Agreement, be subrogated to all rights of the Issuer as to all note payments and other payments and damages payable by the owner of the Project with respect to which such payments shall be made by the entities constituting the Guarantor, and such right of subrogation on the part of the entities constituting the Guarantor shall in all respects survive the retirement of all of the Bonds.

Section 4.6. This Agreement constitutes the entire agreement, and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter hereof as it relates to the Bonds issued in 1980, and may be executed simultaneously in several counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

Section 4.7. The invalidity or unenforceability of any one or more phrases, sentences, clauses or Sections in this Agreement contained, shall not affect the validity or enforceability of the remaining portions of this Agreement, or any part thereof.

Section 4.8. This Agreement may not be amended without the consent of the holders of 100% of the aggregate principal amount of the Bonds outstanding.

Section 4.9. This Agreement shall be construed in accordance with and governed by the laws of the State of Indiana.

IN WITNESS WHEREOF, the entities constituting the Guarantor have has caused this Agreement to be executed in their names as of the date first above written.

CENTRAL-WALTER-SUNBELT

By:

Lartnec Investment Co.,  
a General Partner  
611 Fifth Avenue  
Des Moines, Iowa 50306

By: Hervey A. Feldman, President  
Sunbelt Hospitality Corporation,  
a General Partner  
4646 Poplar Avenue, Suite 335  
Memphis, Tennessee 38117

CENTRAL LIFE ASSURANCE COMPANY

By: C. Max Miller, Vice President  
and Treasurer

LARTNEC INVESTMENT CO.

By:

SUNBELT HOSPITALITY CORPORATION

By: Hervey A. Feldman, President

Accepted this \_\_\_\_\_ day of December, 1980 by

AMERICAN FLETCHER NATIONAL BANK  
AND TRUST COMPANY, as Trustee

By John G. Egger, Vice President  
and Trust Officer

(Corporate Seal)

Attest:

John H. Pease, Assistant Vice  
President and Trust Officer

CITY OF FORT WAYNE, INDIANA

AND

CENTRAL-WALTER-SUNBELT

FIRST SUPPLEMENTAL AND AMENDATORY  
LOAN AGREEMENT

Dated as of December 1, 1980

FIRST SUPPLEMENTAL AND AMENDATORY  
LOAN AGREEMENT

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(This Table of Contents is not a part of the Loan Agreement  
and is only for convenience of reference.)

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FIRST SUPPLEMENTAL AND AMENDATORY  
LOAN AGREEMENT

FIRST SUPPLEMENTAL AND AMENDATORY LOAN AGREEMENT dated as of December 1, 1980, between the City of Fort Wayne, a municipal corporation organized and existing under the laws of the State of Indiana ("Issuer"), and Central-Walter-Sunbelt, a general partnership organized and existing under the laws of the State of Indiana ("Company"):

WITNESSETH:

WHEREAS, the Indiana Code, Title 18, Article 6, Chapter 4.5 (the "Act"), has been enacted by the Legislature of Indiana; and

WHEREAS, the Act provides that an issuer may pursuant to the Act issue revenue bonds and loan the proceeds thereof to a developer or user for the purpose of financing all costs of purchase or construction of facilities, including real and personal property, for diversification of economic development and promotion of job opportunities in or near such issuer, such revenue bonds being payable primarily from the revenues derived from the repayment of such loan; and

WHEREAS, the Issuer issued its Economic Development Revenue Bonds, Series 1979 (Central-Walter-Sunbelt Project), dated September 1, 1979, in the aggregate principal amount of \$4,500,000 to finance the cost of acquisition, construction and equipping the Project; and

WHEREAS, pursuant to and in accordance with the provisions of the Act, by ordinance or ordinances of the legislative body of the Issuer, in furtherance of the purposes of the Act, Issuer proposes to make a supplemental loan to Company for the purpose of completing the acquisition, construction, installation and equipping of economic development facilities under construction in the City of Fort Wayne, Indiana, consisting of certain economic development facilities described in Exhibit A to the Original Agreement (as hereinafter defined); and Issuer proposes to provide funds for such supplemental loan by the issuance of its revenue bonds in the aggregate principal amount of \$1,700,000 under a First Supplemental and Amendatory Mortgage and Indenture of Trust and to secure said supplemental loan by an assignment and pledge of the Original Agreement (as hereinafter defined) and the supplemental agreement pursuant to which the supplemental loan is made and Company's promissory note issued to evidence and secure the debt created by said supplemental loan; and

WHEREAS, Issuer proposes to loan to Company and Company desires to borrow from Issuer funds to defray the cost of financing the Project and certain incidental costs thereto and to issue its promissory note to secure such supplemental loan upon the terms and conditions set forth herein;

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants hereinafter contained, the parties hereto agree as follows:

ARTICLE I  
DEFINITIONS

In addition to the definitions set forth in Article I of the Original Agreement (as hereinafter defined) and Article I of the Original Indenture (as hereinafter defined), the following terms shall have the meanings hereinafter provided:

"First Supplemental Agreement" means this First Supplemental and Amendatory Loan Agreement.

"First Supplemental Indenture" means the First Supplemental and Amendatory Mortgage and Indenture of Trust, dated as of December 1, 1980, among the Issuer, Company and American Fletcher National Bank and Trust Company, as Trustee.

"Loan" means the Original Loan and the Supplemental Loan.

"Original Agreement" means the Loan Agreement, dated as of September 1, 1979, between the Company and the Issuer.

"Original Indenture" means the Mortgage and Indenture of Trust, dated as of September 1, 1979, among Issuer, Company and American Fletcher National Bank and Trust Company, as Trustee, pursuant to which the Series 1979 Bonds were issued and the interest of Issuer in the Original Agreement and in the Series 1979 Note and the revenues received by Issuer under the Original Agreement and under the Series 1979 Note, as well as the Project Site and Building and Project Equipment were pledged, mortgaged and security interest conveyed, respectively, as security for the payment of principal of, premium, if any, and interest on the Series 1979 Bonds.

"Original Loan" means the loan by the Issuer to Company of the proceeds from the sale of the Series 1979 Bonds.

"Prime Interest Rate" means a rate of interest which Crocker National Bank announces publicly from time to time at its One Montgomery Street, San Francisco, California office as its "prime rate" for unsecured commercial loans, such rate of interest to be adjusted automatically as of the opening of business on the effective date of each announced change in said interest rate.

"Series 1980 Bonds" means the \$1,700,000 aggregate principal amount of Bonds authorized to be issued by the Issuer pursuant to the terms and conditions of Section 2.03 of the First Supplemental Indenture.

"Series 1980 Note or Notes" means the Series 1980 Note or Notes which shall be executed and delivered by the Company to the Trustee in the form attached hereto as Exhibit A concurrently with the issuance of the Series 1980 Bonds.

"Supplemental Loan" means the loan by Issuer to Company of the proceeds from the sale of the Series 1980 Bonds.

(End of Article I)

ARTICLE II  
REPRESENTATIONS

Section 2.1. Representations by Issuer. Issuer represents and warrants that:

(a) Issuer is a municipal corporation organized and existing under the laws of the State of Indiana. Under the provisions of the Act, Issuer is authorized to enter into the transactions contemplated by this First Supplemental Agreement and to carry out its obligations hereunder. Issuer has been duly authorized to execute and deliver this First Supplemental Agreement. Issuer agrees that it will do or cause to be done all things necessary to preserve and keep in full force and effect its existence.

(b) Issuer agrees to provide funds from the issuance of the Series 1980 Bonds for the acquiring, constructing, installing and equipping of the Project, as may be necessary, subject to the consideration of the Series 1980 Note or Notes and the Company directly granting a mortgage on the Project Site and Building to the Trustee, and a security interest in the Project Equipment to the Trustee, all for the benefit of the Bondholders, to the end that industry and the economy may be diversified and job opportunities promoted, and to secure the Bonds by pledging its interest in this First Supplemental Agreement and the Series 1980 Note or Notes to the Trustee.

(c) The Issuer represents that the Series 1980 Note or Notes will be assigned to the Trustee pursuant to the First Supplemental Indenture, and that no further assignment is contemplated by the Issuer, since the Issuer recognizes that the Series 1980 Note or Notes have not been registered under the Securities Act of 1933.

Section 2.2. Representations by Company. Company represents and warrants that:

(a) Company is an Indiana general partnership and is qualified to transact business under the laws of the State of Indiana, is not in violation of any provision of its partnership agreement, has not received notice and has no reasonable grounds to believe that it is in violation of any laws in any manner material to its ability to perform its obligations under this First Supplemental Agreement and the Series 1980 Note or Notes, has power to enter into this First Supplemental Agreement and the Series 1980 Note or

Notes and has duly authorized the execution and delivery of this First Supplemental Agreement and the Series 1980 Note or Notes by proper general partnership action.

(b) The indication of interest by the Issuer on June 26, 1979 to issue its Series 1979 Bonds and on September 4, 1979 to issue Bonds for completion of the Project if necessary and to loan the proceeds to Company of its Series 1980 Bonds for the purposes set forth herein has encouraged Company to locate the Project in the City of Fort Wayne, Indiana, and will create new job opportunities in the area.

(c) Company agrees, in consideration of the Loan to it by the Issuer, to enter into the First Supplemental Indenture with the Trustee, all for the benefit of the Bondholders.

(d) All of the proceeds from the Series 1980 Bonds (net of cost of issuance) will be used for the acquisition, construction and improvement of land, buildings or machinery and equipment for the Project. No part of the proceeds are to be used by the Company, directly or indirectly, as working capital or to finance inventory.

(e) The Project constitutes and will constitute either land or property of a character subject to the allowance for depreciation under Section 167 of the Internal Revenue Code of 1954, as amended.

(f) The Company will not use any of the funds provided by the Issuer hereunder in such manner as to, or take or omit to take any action which would, impair the exemption of interest on the Series 1980 Bonds from Federal income taxation.

(g) The Company intends to operate or cause the Project to be operated as a commercial hotel and restaurant facility until the expiration or earlier termination of this Agreement as provided herein.

(h) Neither the execution and delivery of this First Supplemental Agreement, the consummation of the transactions contemplated hereby including execution and delivery of the Series 1980 Note or Notes, and First Supplemental Indenture, nor the fulfillment of or compliance with the terms and conditions of the Agreement, conflicts with or results in a breach of the terms, conditions or provisions of any general partnership restriction or any agreement or instrument to which Company is now

a party or by which it is bound, or constitutes a default under any of the foregoing, or results in the creation or imposition of any liens, charges, or encumbrances whatsoever upon any of the property or assets of Company under the terms of any instrument or agreement.

(i) The Company did not pay for or incur the obligation to pay for the Project, or any component thereof, prior to the adoption of the Resolution of the legislative body of the City of Fort Wayne on June 26, 1979, with respect to the Project.

(j) The Company will promptly obtain additional title insurance in the form of an amendment of an ALTA mortgagee title policy in the face amount of \$1,700,000, and will furnish a copy of such policy to the Trustee. Any Net Proceeds payable either to the Company or to the Trustee under such policy shall, at Company's option, be either (i) used to acquire and construct replacement or substitute property for that to which title has been lost and such property shall be subject to the lien of the Indenture, or (ii) used to redeem Bonds on the earliest possible redemption date.

(k) No proceeds of the Bonds will be used to finance facilities which have been constructed or owned by the proposed user and placed in use by the proposed user prior to the June 15, 1979 inducement resolution of the Fort Wayne Economic Development Commission with respect to such facilities.

(End of Article II)

ARTICLE III  
ISSUANCE OF THE BONDS

Section 3.1. Agreement to Issue Series 1980 Bonds; Application of Bond Proceeds. In order to provide funds to make the Supplemental Loan, Issuer will issue, sell and deliver to the initial purchasers thereof the Series 1980 Bonds and deposit the proceeds thereof with Trustee as follows:

- (i) in the Bond Fund a sum equal to the accrued interest, if any, to be paid by the purchaser of the Series 1980 Bonds, and
- (ii) in the Construction Fund the balance of the proceeds to be received from said sale.

For all purposes of the Agreement the term "Bonds" shall mean and include the Series 1980 Bonds as well as the Series 1979 Bonds and any Additional Bonds to be issued in the future.

Section 3.2. Establishment of Completion Date. Section 3.6 of the Original Agreement is amended as follows: The Completion Date shall be evidenced to Trustee and Issuer by a certificate signed by an authorized representative of Company stating that, except for amounts retained by Trustee at Company's direction for any Costs of Construction not then due and payable or being contested in good faith, (i) construction and/or acquisition of the Project has been completed and any and all labor, services, materials and supplies used in such construction have been paid for, (ii) all other facilities necessary in connection with the Project have been constructed, acquired and installed and all costs and expenses incurred in connection therewith have been paid and (iii) the Project Equipment has been installed to his satisfaction, the Project Equipment so installed is suitable and sufficient for the efficient operation of the Project for the intended purposes and all costs and expenses incurred in the acquisition and installation of the Project Equipment have been paid. Notwithstanding the foregoing, such certificate shall state that it is given without prejudice to any rights against third parties which exist at the date of such certificate or which may subsequently come into being. Upon receipt of such certificate, Trustee shall in accordance with Section 5.08 of the Original Indenture transfer all moneys then in the Construction Fund to a special escrow account within the Bond Fund, except any amount retained as aforesaid by Trustee for any Costs of Construction, provided that at least 90% of the amount actually expended has been expended on land or property of a character subject to the allowance for depreciation under

Section 167 of the Internal Revenue Code of 1954, as amended, and no part thereof has been used by the Company, directly or indirectly as working capital or to finance inventory. Trustee, as directed by Company, shall use any amount transferred to the Bond Fund from the original Loan (together with interest thereon, limited as provided in the Internal Revenue Service Rev. Proc. 79-5 at 26 CFR 601.201 and any subsequent amendments, modifications or replacements thereof) to redeem Series 1980 Bonds at the earliest redemption date, or upon receipt of an opinion from a firm of nationally recognized bond counsel to the effect that such use would not cause interest on the Bonds to become taxable, for any other use so approved by said bond counsel. Company shall make available to Trustee and Issuer on their written request a copy of the detail drawings for the Project as completed.

Section 3.3. Investment of Construction Fund and Bond Fund Moneys. Any moneys derived from the proceeds of the Series 1980 Bonds and held as a part of the Construction Fund and any moneys deposited in the Bond Fund for payment of the Series 1980 Bonds shall be invested or reinvested by Trustee, at the request of and as directed by the Company, in (i) obligations issued or guaranteed by the United States of America; (ii) obligations issued or guaranteed by any person controlled or supervised by and acting as an instrumentality of the United States of America pursuant to authority granted by the Congress of the United States; (iii) negotiable or nonnegotiable certificates of deposit and time deposits issued by any bank, trust company or national banking association; (iv) bankers acceptances; (v) documented discount notes and certain notes backed by irrevocable letters of credit; (vi) repurchase agreements fully secured by obligations of the type specified in (i) through (v) above. Trustee may make any and all such investments through its own bond department.

Section 3.4. Covenants With Respect to Arbitrage. Company hereby certifies and represents to Issuer that it is not expected that the proceeds of the Series 1980 Bonds will be used in a manner that would cause the Bonds to be arbitrage bonds under Section 103(c) of the Internal Revenue Code of 1954, as amended, and the proposed regulations promulgated under that Section. To the best knowledge and belief of Company, there are no facts or circumstances which would materially change the foregoing.

Company and Issuer, in reliance on Company's covenant herein, covenant and certify to each other and to and for the benefit of the purchasers of the Series 1980 Bonds that no use will be made of the proceeds from the issue and sale of the Series

1980 Bonds which, if such use had been reasonably expected on the date of issue of the Series 1980 Bonds, would have caused the Series 1980 Bonds to be classified as arbitrage bonds within the meaning of Section 103(c)(2) of the Internal Revenue Code of 1954, as amended. Pursuant to such covenant, Issuer and Company each obligates itself throughout the term of the issue of the Series 1980 Bonds not to violate the requirements of Section 103(c) of the Internal Revenue Code of 1954, as amended, and any regulations promulgated thereunder.

As used in this Section all words and terms shall have the same meanings as such words are given for the purposes of such Section 103(c) and the applicable regulations promulgated by the Department of Treasury thereunder.

(End of Article III)

ARTICLE IV  
PROVISIONS FOR PAYMENT

Section 4.1. Loan Payments and Other Amounts Payable; Notes; and Credits. Concurrently with the sale and delivery by Issuer of its Series 1980 Bonds, Company shall execute and deliver to Trustee the Series 1980 Note or Notes substantially in the form attached hereto as Exhibit A, pursuant to which Company will make payments sufficient to pay when due (whether at maturity, by acceleration or otherwise) the principal of, premium, if any, and interest on the Series 1980 Bonds.

In the event Company should fail to make any of the payments required in this Section or in the Note or Notes, the item or installment so in default shall continue as an obligation of Company until the amount in default shall have been fully paid.

The principal amount of any Series 1980 Bonds purchased by the Company and delivered to the Trustee, or purchased by the Trustee and cancelled, or redeemed pursuant to Sections 2.2(j), 3.6, 4.10, 4.11 and 5.2 of the Original Agreement or Sections 2.2(j) and 3.2 hereof, shall be credited against the obligation of the Company to pay the principal of the Series 1980 Note or Notes.

Section 4.2. Payments Pledged. It is understood and agreed that all payments made by Company pursuant to Section 4.1 hereof and the Series 1980 Note or Notes are pledged to Trustee pursuant to the Granting Clauses of the First Supplemental Indenture. Company assents to such pledge, and hereby agrees that, as to Trustee, its obligation to make such payments shall be absolute and shall not be subject to any defense or any right of set-off, counterclaim or recoupment arising out of any breach by Issuer of any obligation to Company, whether hereunder or otherwise, or out of any indebtedness or liability at any time owing to Company by Issuer. Issuer hereby directs Company and Company hereby agrees to pay to Trustee at its principal office all said amounts payable by Company pursuant to Section 4.1 hereof and the Series 1980 Note or Notes.

(End of Article IV)

ARTICLE V  
SPECIAL COVENANTS

Section 5.1. Tax Exempt Status of Bonds. Section 6.6 of the Original Agreement is amended as follows: Company further covenants that it will not take, or fail to take, any action which will cause the interest on the Bonds to become subject to federal income taxes pursuant to the provisions of Section 103(b) of the Internal Revenue Code so long as any of the Bonds are outstanding under the Indenture; provided, that Company shall not have violated this covenant if the interest on any of the Bonds becomes taxable to a person who is a substantial user of the Project or a related person pursuant to the provisions of Section 103(b)(9) of the Internal Revenue Code. In the event that the Bonds are to be issued pursuant to the \$10,000,000 election under Section 103(b) of the Internal Revenue Code, Issuer shall file prior to the issuance of the Bonds an election statement pursuant to Reg. Section 1.103-10(b) with the district director or director of the regional service center with whom the principal user or users (as such term is defined in the regulations and rulings relevant to Section 103(b) of the Internal Revenue Code) of the proceeds of such issue, or facilities acquired, constructed, reconstructed or improved with the proceeds of such issue, are required to file their income tax returns (as provided in Section 6091 of the Internal Revenue Code) for the taxable year during which the election is made, and such principal user or users shall attach a copy of such election statement to their income tax return (or returns) for such taxable year. Thereafter, each such principal user or users shall also file a supplemental statement which lists by date and amount any subsequent Section 103(b)(6)(D) capital expenditures, and such supplemental statements shall be filed with the district director or director of the regional service center with whom such principal user's (or users') income tax return (or returns) is (are) required to be filed (as provided in Section 6091 of the Internal Revenue Code) on the due date prescribed for filing such return (or returns) (without regard to any extensions of time). Issuer and Company agree to deliver or cause to be delivered to Trustee each statement required to be filed hereunder simultaneously with each such filing. Company further agrees to deliver to Trustee simultaneously with each such filing certification from an independent certified public accountant of the amounts and dates of such Section 103(b)(6)(D) capital expenditures so reported to the Internal Revenue Service.

(End of Article V)

ARTICLE VI  
EVENTS OF DEFAULT AND REMEDIES

Section 6.1. Events of Default Defined. Section 8.1 of the Original Agreement is supplemented by the following Section 8.1(d):

(d) The default by the Company on any obligation for borrowed money under any agreement evidencing indebtedness which exceeds \$50,000 and the continuation of said default for a period of thirty days.

(End of Article VI)

ARTICLE VII  
PREPAYMENT OF LOAN

Section 7.1. Option to Prepay the Loan. Company shall have and is hereby granted the option to prepay in integral multiples of \$5,000 the amounts payable under this First Supplemental Agreement and the Series 1980 Note or Notes which correspond to the Series 1980 Bonds in whole or in part on any interest payment date (in inverse order of principal installments).

Section 7.2. No Obligation to Prepay the Supplemental Loan. Sections 9.2(f) and (g) of the Original Agreement shall not be applicable to the Series 1980 Note or Notes.

Section 7.3. Prepayment Price. In the case of any prepayment pursuant to Section 7.1 hereof, the amount payable shall be a sum sufficient, together with other funds deposited with Trustee and available for such purpose, to redeem all or a designated portion of the Series 1980 Bonds then outstanding (but in integral multiples of \$5,000) at one hundred percent (100%) of the principal amount thereof, plus accrued interest to the date of redemption and to pay all reasonable and necessary expenses of Trustee accrued and to accrue through redemption of the Series 1980 Bonds so redeemed.

Section 7.4. Notice of Prepayment. To exercise the option set forth in this Article VII Company shall give written notice to Issuer and Trustee which shall specify therein the date of closing of the prepayment, which date shall be not less than 45 days nor more than 90 days from the date the notice is mailed.

Section 7.5. Relative Position of this Article and Indenture. The rights and options granted to Company in this Article shall be and remain prior and superior to the Indenture and may be exercised whether or not Company is in default hereunder; provided that such default will not result in nonfulfillment of any condition to the exercise of any such right or option.

(End of Article VII)

ARTICLE VIII  
MISCELLANEOUS

Section 8.1. Agreement Term. Section 10.1 of the Original Agreement is amended as follows: The Agreement shall remain in full force and effect from September 1, 1979 to and including December 1, 2000, provided, however, that this Agreement will terminate prior to said date if Company shall prepay the amounts due under all Notes and the Agreement.

Section 8.2. Notices. Section 10.2 of the Original Agreement is amended as follows: All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when delivered or mailed by registered mail, postage prepaid, addressed as follows: if to Issuer, Attention: City Clerk, City Building, Fort Wayne, Indiana 46502; if to Company, Attention: President of Sunbelt Hospitality Corporation, 4646 Poplar Avenue, Suite 335, Memphis, Tennessee 38117 and to Central Life Assurance Company, 611 Fifth Avenue, Des Moines, Iowa 50306; and if to Trustee, Attention: Corporate Trust Department, American Fletcher National Bank and Trust Company, 111 Monument Circle, Indianapolis, Indiana 46204. A duplicate copy of each notice, certificate or other communication given hereunder by either Issuer or Company to the other shall also be given to Trustee. Issuer, Company and Trustee may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

Section 8.3. Execution in Counterparts. This First Supplemental Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 8.4. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Indiana.

Section 8.5. Captions. The captions or headings in this First Supplemental Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or Sections of this First Supplemental Agreement.

(End of Article VIII)

IN WITNESS WHEREOF, Issuer and Company have caused this First Supplemental Agreement to be executed in their respective names and attested by their duly authorized officers or partners, all as of the date first above written.

CITY OF FORT WAYNE, INDIANA

By Winfield Moses, Jr., Mayor

(SEAL)

Attest:

Charles W. Westerman, Clerk

CENTRAL-WALTER-SUNBELT

By: Lartnec Investment Co.,  
a General Partner  
611 Fifth Avenue  
Des Moines, Iowa 50306

By: Hervey A. Feldman, President  
Sunbelt Hospitality Corporation,  
a General Partner  
4646 Poplar Avenue, Suite 335  
Memphis, Tennessee 38117

EXHIBIT A  
CENTRAL-WALTER-SUNBELT  
SERIES 1980 PROMISSORY NOTE

FOR VALUE RECEIVED, the undersigned, Central-Walter-Sunbelt ("Company"), a partnership organized and existing under the laws of the State of Indiana, hereby promises to pay to the order of the City of Fort Wayne, Indiana ("Issuer"), on or before 11 o'clock a.m. (prevailing Indianapolis time) the principal sum of \$1,700,000 together with interest thereon in installments as provided below: on May 31 and November 30 of each year during the term of the Loan Agreement, dated as of September 1, 1979, between Issuer and Company, as supplemented and amended by the First Supplemental and Amendatory Loan Agreement, dated as of December 1, 1980, between the same parties (collectively the "Agreement") a sum which, together with other moneys available therefor in the Bond Fund under the Mortgage and Indenture of Trust, dated as of September 1, 1979, among the Issuer, Company and American Fletcher National Bank and Trust Company, Indianapolis, Indiana, as Trustee (the "Trustee"), as supplemented and amended by the First Supplemental and Amendatory Mortgage and Indenture of Trust, dated as of December 1, 1980, between the same parties (collectively the "Indenture") will equal the principal of the Series 1980 Bonds (as hereinafter defined) on the next succeeding day and on June 14 and December 14 of each year during the term of the Agreement, a sum which, together with other moneys available therefor in the Bond Fund will equal the interest on the Series 1980 Bonds (as hereinafter defined) on the next succeeding day.

Payments of both principal and interest are to be endorsed to the Trustee, and are to be made directly to the Trustee for the account of the Issuer pursuant to such endorsement. Such endorsement is to be made as security for the payment of the bonds designated "City of Fort Wayne Economic Development First Mortgage Revenue Bonds, Series 1980 (Central-Walter-Sunbelt Project)" and issued pursuant to the Indenture (the "Series 1980 Bonds"). All of the terms, conditions and provisions of the Indenture are, by this reference thereto, incorporated herein as a part of this Series 1980 Note.

This Series 1980 Note is issued pursuant to the Agreement, and is entitled to the benefits, and is subject to the conditions thereof. The obligations of Company to make the payments required hereunder shall be absolute and unconditional without any defense or right of set-off, counterclaim or recoupment by

reason of any default by Issuer under the Agreement or under any other agreement between Company and Issuer or out of any indebtedness or liability at any time owing to the Company by the Issuer or for any other reason.

This Series 1980 Note is subject to prepayment under the terms and conditions, and in the amounts, provided in Article VII of the First Supplemental Agreement.

If an "event of default" occurs under Section 8.1 of the Agreement, as supplemented, the principal of this Series 1980 Note may be declared due and payable in the manner and to the effect provided in Article VIII of the Agreement.

In any case where the date of payment hereunder shall be in the City of Indianapolis, Indiana, a Saturday, Sunday or a legal holiday or a day on which banking institutions are authorized by law to close, then such payment shall be made on the next preceding business day with the same force and effect as if made on the date of payment hereunder.

All terms used in this Series 1980 Note which are defined in the Agreement shall have the meanings assigned to them in the Agreement.

IN WITNESS WHEREOF, Company has caused this Series 1980 Note to be duly executed, attested and delivered as of December 1, 1980.

CENTRAL-WALTER-SUNBELT

By: \_\_\_\_\_  
Lartnec Investment Co.,  
a General Partner  
611 Fifth Avenue  
Des Moines, Iowa 50306

By: Hervey A. Feldman, President  
Sunbelt Hospitality Corporation,  
a General Partner  
4646 Poplar Avenue, Suite 335  
Memphis, Tennessee 38117

ENDORSEMENT

Pay to the order of American Fletcher National Bank and Trust Company, as Trustee under the Mortgage and Indenture of Trust dated as of September 1, 1979, without recourse against the Issuer.

CITY OF FORT WAYNE

By Winfield Moses, Jr., Mayor

(SEAL)

Attest:

Charles W. Westerman, Clerk

CENTRAL-WALTER-SUNBELT

AND

CITY OF FORT WAYNE, INDIANA

TO

AMERICAN FLETCHER NATIONAL BANK  
AND TRUST COMPANY  
as Trustee

FIRST SUPPLEMENTAL AND AMENDATORY  
MORTGAGE AND INDENTURE OF TRUST

Dated as of December 1, 1980

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FIRST SUPPLEMENTAL AND AMENDATORY  
MORTGAGE AND INDENTURE OF TRUST

THIS FIRST SUPPLEMENTAL AND AMENDATORY MORTGAGE AND  
INDENTURE OF TRUST (the "Indenture") made and entered into as  
of December 1, 1980, among the City of Fort Wayne, a municipal  
corporation organized and existing under the laws of the State  
of Indiana ("Issuer"), Central-Walter-Sunbelt, a general part-  
nership organized and existing under the laws of the State of  
Indiana ("Company"), and American Fletcher National Bank and  
Trust Company, Indianapolis, Indiana, a national banking  
association, with its principal office located at Indianapolis,  
Indiana, as Trustee ("Trustee").

WITNESSETH:

WHEREAS, the Indiana Code, Title 18, Article 6, Chapter 4.5  
(the "Act"), has been enacted by the Legislature of Indiana; and

WHEREAS, the Act declares that the financing of economic  
development facilities constitutes a public purpose; and

WHEREAS, the Act provides that an issuer may pursuant to  
the Act issue revenue bonds and loan the proceeds thereof to a  
general partnership for the purpose of financing all costs of  
acquisition or construction of facilities, including real and  
personal property, for diversification of economic development  
and promotion of job opportunities in or near such issuer, such  
revenue bonds being payable primarily from the revenues derived  
from the repayment of such loan; and

WHEREAS, the Act provides that such bonds may be secured by  
a trust indenture between the Issuer and a corporate trustee;  
and

WHEREAS, the Issuer has issued its Series 1979 Bonds in the  
aggregate principal amount of \$4,500,000 to finance the acqui-  
sition, construction and equipping of the Project (as defined  
in the Original Agreement); and

WHEREAS, pursuant to and in accordance with the provisions  
of the Act, by ordinance of the legislative body of the City of  
Fort Wayne, in furtherance of the purposes of the Act, Issuer  
proposes to make a supplemental loan to Central-Walter-Sunbelt,  
an Indiana general partnership, for the purpose of completing  
the financing of the economic development facilities under  
construction or to be constructed in the City of Fort Wayne,  
Indiana, consisting of certain economic development facilities  
described in Exhibit A hereto; and Issuer proposes to provide

funds for such supplemental loan by the issuance of its revenue bonds in the aggregate principal amount of \$1,700,000 under this First Supplemental and Amendatory Mortgage and Indenture of Trust and to secure said loan by an assignment and pledge of the agreement pursuant to which the supplemental loan is made and Company's promissory note issued to evidence the debt created by said supplemental loan, and the Company will secure said supplemental loan by its promissory note and by this First Supplemental and Amendatory Mortgage and Indenture of Trust; and

WHEREAS, Issuer proposes to loan to Company, and Company desires to borrow from Issuer funds, to defray the cost of financing the Project and certain incidental costs upon the terms and conditions set forth in the First Supplemental Agreement (as hereinafter defined), and Issuer proposes to make the supplemental loan with Company to issue its promissory note to evidence such supplemental loan upon the terms and conditions set forth in the First Supplemental Agreement (as hereinafter defined); and

WHEREAS, it has been determined that the cost of completing the financing of the Project, including necessary expenses incidental thereto, will require the issuance, sale and delivery of economic development first mortgage revenue bonds in the principal amount of \$1,700,000 (the "Series 1980 Bonds"), as hereinafter provided; and

WHEREAS, the registered Series 1980 Bonds without coupons and Trustee's certificate of authentication to be endorsed on such Series 1980 Bonds are to be in substantially the following form, with appropriate variations, omissions and insertions as permitted or required by this Indenture, to-wit:

(Form of Fully Registered Series 1980 Bond)

No. \_\_\_\_\_ \$ \_\_\_\_\_

UNITED STATES OF AMERICA  
STATE OF INDIANA  
CITY OF FORT WAYNE  
ECONOMIC DEVELOPMENT FIRST MORTGAGE  
REVENUE BOND, SERIES 1980  
(CENTRAL-WALTER-SUNBELT PROJECT)

The City of Fort Wayne, a municipal corporation organized and existing under the laws of the State of Indiana ("Issuer"), for value received, promises to pay from the source and as hereinafter provided to \_\_\_\_\_ or registered assigns,

by December 1, 2000, the principal sum of \_\_\_\_\_ Dollars, payable in semiannual installments commencing on June 1, 1981 and on each June 1 and December 1 thereafter pursuant to the following schedule:

<u>Date</u>	<u>Amount</u>
June 1, 1981	\$15,000
December 1, 1981	15,000
June 1, 1982	15,000
December 1, 1982	20,000
June 1, 1983	20,000
December 1, 1983	20,000
June 1, 1984	20,000
December 1, 1984	25,000
June 1, 1985	25,000
December 1, 1985	25,000
June 1, 1986	25,000
December 1, 1986	25,000
June 1, 1987	25,000
December 1, 1987	30,000
June 1, 1988	30,000
December 1, 1988	30,000
June 1, 1989	30,000
December 1, 1989	35,000
June 1, 1990	35,000
December 1, 1990	35,000
June 1, 1991	40,000
December 1, 1991	40,000
June 1, 1992	40,000
December 1, 1992	45,000
June 1, 1993	45,000
December 1, 1993	50,000
June 1, 1994	50,000
December 1, 1994	50,000
June 1, 1995	55,000
December 1, 1995	55,000
June 1, 1996	60,000
December 1, 1996	60,000
June 1, 1997	65,000
December 1, 1997	70,000
June 1, 1998	70,000
December 1, 1998	75,000
June 1, 1999	75,000
December 1, 1999	80,000
June 1, 2000	85,000
December 1, 2000	90,000

and in like manner to pay interest on said sum from the date hereof at the rate per annum equal to seventy percent (70%) of the Prime Interest Rate (as that term is defined in the First Supplemental Agreement mentioned below) (interest being calculated on the basis of the number of days actually elapsed and a year containing 365 or 366 days) interest accruing to June 1 and December 1 in each year being payable on or before June 15 and December 15, respectively, in each year commencing June 15, 1981 until said principal sum is paid, except as the provisions hereinafter set forth with respect to redemption prior to maturity may become applicable hereto, principal (except the last installment thereof) and interest on this Series 1980 Bond being payable by check or draft mailed or delivered to the registered owner at the address of such owner as it appears on the Bond Register and being payable in lawful money of the United States of America, the last installment being payable upon presentation hereof at the principal office of American Fletcher National Bank and Trust Company, Indianapolis, Indiana, as Trustee, or its successor in trust ("Trustee").

This Series 1980 Bond is one of an authorized issue of Economic Development First Mortgage Revenue Bonds, Series 1980 (Central-Walter-Sunbelt Project) ("Series 1980 Bonds") limited, except as provided with respect to Additional Bonds in a Mortgage and Indenture of Trust ("Original Indenture"), dated as of September 1, 1979, as supplemented by a First Supplemental and Amendatory Mortgage and Indenture of Trust ("First Supplemental Indenture"), dated as of December 1, 1980 (collectively "Indenture"), in aggregate principal amount of \$1,700,000 issued for the purpose of completing the financing of certain economic development facilities ("Project"), in the City of Fort Wayne, Indiana, for Central-Walter-Sunbelt, an Indiana general partnership ("Company"), and paying necessary expenses incidental thereto so as to promote diversification of economic development and job opportunities in and near the City of Fort Wayne, Indiana. The proceeds of the Series 1980 Bonds will be loaned by Issuer to Company ("Supplemental Loan") under the terms of a First Supplemental and Amendatory Loan Agreement for the Project dated as of December 1, 1980 ("First Supplemental Agreement"), supplementing and amending a Loan Agreement dated as of September 1, 1979 ("Original Agreement"), between the Issuer and Company (collectively "Agreement"), and Company has

issued a Series 1980 Promissory Note dated as of December 1, 1980, ("Series 1980 Note") as security for its obligation to repay the Supplemental Loan. The Series 1980 Bonds are all issued under and are equally and ratably secured by and entitled to the protection of the Indenture, duly executed and delivered by Issuer and Company to Trustee, which Indenture is recorded in the office of the Recorder of Allen County, Indiana. It is provided in the Indenture that Issuer may hereafter issue Additional Bonds from time to time under certain terms and conditions contained therein; and if issued, such Additional Bonds will rank pari passu with this issue of Series 1980 Bonds and the Series 1979 Bonds issued pursuant to the Original Indenture. (The Series 1979 Bonds issued pursuant to the Original Indenture, Series 1980 Bonds and any Additional Bonds hereafter issued shall be referred to as the "Bonds.")

Reference is made to the Indenture for a description of the property mortgaged, and interests pledged and assigned, the provisions, among others, with respect to the nature and extent of the security, the rights, duties and obligations of Issuer, Company, Trustee and the holders of the Series 1980 Bonds and terms upon which the Series 1980 Bonds are issued and secured and the terms and conditions upon which the Series 1980 Bonds will be deemed to be paid at or prior to maturity or redemption of the Series 1980 Bonds, upon the making of provision for the payment thereof in the manner set forth in the Indenture, and to all the provisions of which the holder hereof by the acceptance of this Series 1980 Bond assents.

The Series 1980 Bonds are issuable in the form of registered Series 1980 Bonds without coupons in the denomination of \$5,000 or any multiple thereof.

This Series 1980 Bond is transferable by the registered holder hereof in person or by his attorney duly authorized in writing at the principal office of the Trustee in the City of Indianapolis, Indiana, but only in the manner, subject to the limitations and upon payment of the charges provided in the Indenture, and upon surrender of this Series 1980 Bond. Upon such transfer a new registered Series 1980 Bond or Bonds without coupons of authorized denomination or denominations, for the same aggregate principal amount will be issued to the transferee in exchange therefor. The Issuer, the Trustee and any agent of the Issuer may deem and treat the registered holder hereof

as the absolute owner hereof for the purpose of receiving payment of or on account of principal hereof and premium, if any, hereon and interest due hereon and for all other purposes and neither the Issuer, the Trustee nor any agent of the Issuer shall be affected by any notice to the contrary.

The Series 1980 Bonds may be redeemed in integral multiples of \$5,000 by Issuer on any interest payment date in whole or in part (in inverse order of principal installments and by lot within principal installments in such manner as Trustee may determine) at one hundred percent (100%) of the outstanding principal amount thereof plus accrued interest to the redemption date.

In the event any of the Series 1980 Bonds are called for redemption as aforesaid, notice thereof identifying the Bonds or portions thereof to be redeemed will be given by Trustee by mailing a copy of the redemption notice by registered or certified mail at least thirty days prior to the date fixed for redemption to the registered owner of each Bond to be redeemed at the address shown on the registration books; provided, however, that failure to give such notice by mailing or any defect therein, shall not affect the validity of any proceeding for the redemption of any Bond with respect to which no such failure has occurred. All Bonds so called for redemption will cease to bear interest after the specified redemption date provided funds for their redemption are on deposit at the place of payment at that time.

The Series 1980 Bonds are issued pursuant to and in full compliance with the constitution and laws of the State of Indiana, particularly the Indiana Code, Title 18, Article 6, Chapter 4.5 and pursuant to an ordinance adopted by Issuer which ordinance authorizes the execution and delivery of the First Supplemental Agreement and the First Supplemental Indenture. This Series 1980 Bond and the issue of which it forms a part are limited obligations of Issuer and are payable solely out of the revenues and other amounts derived from the Agreement. Neither the State of Indiana, nor Issuer, nor any political subdivision shall be obligated to pay the principal of the Series 1980 Bonds or the interest thereon or other costs incident thereto except from the revenues and money pledged therefor. Neither the faith and credit nor the taxing power of the State of Indiana or any political subdivision thereof is pledged to the payment of the principal of

the Series 1980 Bonds and the interest thereon or other costs incident thereto. Payments sufficient for the prompt payment when due of the principal of, premium, if any, and interest on the Series 1980 Bonds are to be paid to Trustee for the account of Issuer and deposited in a special account created by Issuer and designated "City of Fort Wayne, Indiana, Economic Development Revenue Bond Fund (Central-Walter-Sunbelt Project)", and have been duly pledged and assigned for that purpose, and in addition the rights of Issuer under the Agreement and the Notes of the Company issued thereunder have been assigned to Trustee to secure payment of such principal, premium, if any, and interest under the Indenture.

The holder of this Series 1980 Bond shall have no right to enforce the provisions of the Indenture or to institute action to enforce the covenants therein, or to take any action with respect to any event of default under the Indenture, or to institute, appear in or defend any suit or other proceedings with respect thereto, except as provided in the Indenture. In certain events, on the conditions, in the manner and with the effect set forth in the Indenture, the principal of all of the Series 1980 Bonds issued under the Indenture and then outstanding may become or may be declared due and payable before the stated maturity thereof, together with interest accrued thereon. The Indenture prescribes the manner in which it may be discharged, including a provision that the Series 1980 Bonds shall be deemed to be paid if Governmental Obligations, as defined therein, maturing as to principal and interest in such amounts and at such times as will provide sufficient funds to pay the principal of, premium, if any, and interest on the Series 1980 Bonds and all fees and expenses of Trustee and any paying agent, and all other liabilities of Company under the Agreement, shall have been deposited with Trustee, after which the Series 1980 Bonds shall no longer be secured by or entitled to the benefits of the Indenture, except for the purposes of registration and exchange of Series 1980 Bonds and of any such payment from such Governmental Obligations.

The Indenture permits, with certain exceptions as therein provided, the amendment thereof and the modification of the rights and obligations of Company and Issuer and the rights of holders of the Bonds of all series at any time by Issuer with the consent of Company and the holders of two-thirds in aggregate principal amount of the Bonds of all series at the

time outstanding, as defined in the Indenture. Any such consent or waiver by the holder of this Series 1980 Bond shall be conclusive and binding upon such holder and upon all future holders of this Series 1980 Bond and of any Series 1980 Bond issued upon the transfer or exchange of this Series 1980 Bond whether or not notation of such consent or waiver is made upon this Series 1980 Bond. The Indenture also contains provisions permitting Trustee to waive certain past defaults under the Indenture and their consequences.

It is hereby certified, recited and declared that all acts, conditions and things required to exist, happen and be performed precedent to and in the execution and delivery of the Original Indenture and the First Supplemental Indenture and the issuance of this Series 1980 Bond do exist, have happened and have been performed in due time, form and manner as required by law; that the issuance of this Series 1980 Bond and the issue of which it forms a part, together with all other obligations of Issuer, do not exceed or violate any constitutional or statutory limitation; and that the revenues pledged to the payment of the principal of, premium, if any, and interest on this Series 1980 Bond and the issue of which it forms a part, as the same become due, will be sufficient in amount for that purpose.

This Series 1980 Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Indenture until the certificate of authentication hereon shall have been signed by Trustee.

IN WITNESS WHEREOF, the City of Fort Wayne, Indiana, has caused this Series 1980 Bond to be executed in its name by the manual or facsimile signature of the Mayor and its corporate seal to be hereunto impressed or imprinted hereon and attested by the manual or facsimile signature of its Clerk, all as of December 1, 1980.

CITY OF FORT WAYNE, INDIANA

By \_\_\_\_\_  
Mayor

Attest:

Clerk

(SEAL)

(Form of Trustee's Certificate of Authentication)

This Series 1980 Bond is one of the Series 1980 Bonds of the issue described in the within-mentioned First Supplemental and Amendatory Mortgage and Indenture of Trust.

AMERICAN FLETCHER NATIONAL  
BANK AND TRUST COMPANY, as  
Trustee

By \_\_\_\_\_  
Authorized Officer

Assignment

For Value Received  
hereby sell(s), assign(s) and transfer(s) unto \_\_\_\_\_

(Please print or typewrite \_\_\_\_\_ (Social security number  
name and address including \_\_\_\_\_ of transferee)  
postal zip code of transferee)

the within Bond, together with accrued interest  
thereon and all right, title and interest thereto, and  
hereby irrevocably authorize(s) and appoint(s)  
attorney to transfer said Bond on the  
books of the within named Issuer with full power of  
substitution in the premises.

Dated \_\_\_\_\_ L.S.

In the presence of \_\_\_\_\_

and;

WHEREAS, all things necessary to make the Series 1980 Bonds, when authenticated by Trustee and issued as in this Indenture provided, the valid, binding and legal obligations of Issuer according to the import thereof, and to constitute this First Supplemental Indenture a valid lien on the properties

mortgaged and a valid assignment and pledge of the amounts to be paid for the principal of, premium, if any, and interest on the Series 1980 Bonds and a valid assignment and pledge of the rights of Issuer under the First Supplemental Agreement (as hereinafter defined) and the Series 1980 Note (as hereinafter defined) have been done and performed, and the creation, execution and delivery of this First Supplemental Indenture, and the creation, execution and issuance of the Series 1980 Bonds, subject to the terms hereof, have in all respects been duly authorized;

NOW, THEREFORE, THIS FIRST SUPPLEMENTAL AND AMENDATORY MORTGAGE AND INDENTURE OF TRUST WITNESSETH

#### GRANTING CLAUSES

The Issuer and Company in consideration of the premises and in consideration of the Supplemental Loan (as hereinafter defined) under the First Supplemental Agreement (as hereinafter defined) and the acceptance by Trustee of the trusts hereby created and of the purchase and acceptance of the Series 1980 Bonds by the holders and owners thereof, and of the sum of one dollar, lawful money of the United States of America, to them duly paid by Trustee at or before the execution and delivery of these presents, and for other good and valuable considerations, the receipt of which is hereby acknowledged, in order to secure the payment of the principal of, premium, if any, and interest on the Series 1980 Bonds according to their tenor and effect and to secure the performance and observance by Issuer and Company of all the covenants expressed or implied herein and in the Series 1980 Bonds, do hereby grant, bargain, sell, convey, mortgage, warrant, assign and pledge, and grant a security interest in, the following to American Fletcher National Bank and Trust Company, as Trustee, and its successors in trust and assigns forever, for the securing of the performance of the obligations of Issuer and Company hereinafter set forth:

#### GRANTING CLAUSE FIRST

Company grants the right, title and interest of Company in the real estate described in Exhibit A attached hereto and made a part hereof (hereinafter defined as "Project Site"), together with the entire interest of Company in and to all buildings, structures, improvements and appurtenances now standing, or at any time hereafter constructed or placed, upon such real estate (hereinafter defined as "Building"), including all right, title and interest of Company, if any, in and to all building material, building equipment and fixtures of every kind and nature whatsoever on said real estate or in any building, structure or

improvement now or hereafter standing on said real estate, and the reversion or reversions, remainder or remainders, in and to said real estate and together with the entire interest of Company in and to all and singular the tenements, hereditaments, easements, rights-of-way, rights, privileges and appurtenances to said real estate, belonging or in anywise appertaining thereto, and all claims or demands whatsoever of Company either at law or in equity, in possession or expectancy of, in and to said real estate, it being the intention of the parties hereto that, so far as may be permitted by law, all property of the character hereinabove described, which is now owned or is hereafter acquired by Company and is affixed or attached or annexed to said real estate, shall be and remain or become and constitute a portion of said real estate and the security covered by and subject to the lien of the Indenture, subject, however, to Permitted Encumbrances (as hereinafter defined).

#### GRANTING CLAUSE SECOND

Issuer hereby grants, assigns and pledges the First Supplemental Agreement and has endorsed the Series 1980 Note (as hereinafter defined) including all extensions and renewals of the term thereof, if any, together with all right, title and interest of Issuer therein, including, but without limiting the generality of the foregoing, the present and continuing right to make claim for, collect, receive and receipt for any of the income, revenues, issues and profits and other sums of money payable or receivable thereunder, to bring actions and proceedings thereunder or for the enforcement thereof, and to do any and all things which Issuer is or may become entitled to do under the Agreement or the Notes; provided, that the assignment and pledge made by this clause shall not impair or diminish any obligation of Issuer under the Agreement.

#### GRANTING CLAUSE THIRD

All moneys and securities from time to time held by Trustee under the terms of the Indenture (except moneys or Governmental Obligations deposited with Trustee pursuant to Article VII hereof) and any and all other real or personal property of every name and nature from time to time hereafter by delivery or by writing of any kind conveyed, mortgaged, pledged, assigned, or transferred as and for additional security hereunder by Issuer, Company or by anyone in their behalf, or with their written consent to Trustee which is hereby authorized to receive any and all such property at any and all times and to hold and apply the same subject to terms hereof.

#### GRANTING CLAUSE FOURTH

Company grants a security interest in the machinery, equipment and other tangible personal property owned by it and described in Exhibit A attached hereto and made a part hereof (hereinafter referred to as "Project Equipment") (which machinery, equipment and property is to be located on the real estate described in Exhibit A), excluding property installed by Company pursuant to Section 4.8 and 7.7 of the Original Agreement (as hereinafter defined) together with all other machinery, equipment and further tangible personal property which is now owned or hereafter acquired by Company and which is now or at any time hereafter located on the real estate described in Exhibit A attached hereto and made a part hereof, excluding property installed by Company pursuant to Section 4.8 and 7.7 of the Original Agreement; subject, however, to Permitted Encumbrances (as defined in the Original Indenture).

TO HAVE AND TO HOLD all and singular the trust estate, whether now owned or hereafter acquired, unto Trustee and its respective successors in said trust and assigns forever.

IN TRUST NEVERTHELESS, upon the terms and trusts herein set forth for the equal and proportionate benefit, security and protection of all present and future holders and owners of the Bonds (as defined in the Original Indenture) and the bearers of all coupons appertaining thereto, from time to time, issued under and secured by this Indenture without privilege, priority or distinction as to the lien or otherwise of any of the Bonds or coupons appertaining thereto over any of the other Bonds or coupons;

PROVIDED, HOWEVER, that if Issuer, its successors or assigns, shall well and truly pay, or cause to be paid, the principal of, premium, if any, and interest on the Bonds due or to become due thereon, at the times and in the manner mentioned in the Bonds and the interest coupons appertaining to the coupon Bonds, respectively, according to the true intent and meaning thereof, and shall cause the payments to be made on the Bonds as required under Article IV hereof, or shall provide, as permitted hereby, for the payment thereof by depositing with Trustee the entire amount due or to become due thereon, and shall well and truly keep, perform and observe all the covenants and conditions pursuant to the terms of the Indenture to be kept, performed and observed by it, and shall pay or cause to be paid to Trustee all sums of money due or to become due to it in accordance with the terms and provisions hereof, then upon the final payment thereof the Indenture and the rights

hereby granted shall cease, determine and be void; otherwise the Indenture to be and remain in full force and effect.

THIS FIRST SUPPLEMENTAL AND AMENDATORY INDENTURE OF TRUST FURTHER WITNESSETH, and it is expressly declared that, all Bonds issued and secured hereunder are to be issued, authenticated and delivered and all said property, rights and interests, including, without limitation, the amounts hereby assigned and pledged are to be dealt with and disposed of under, upon and subject to the terms, conditions, stipulations, covenants, agreements, trusts, uses and purposes as hereinafter expressed, and Issuer and Company have agreed and covenanted, and do hereby agree and covenant with Trustee and with the respective holders and owners of the Bonds as follows:

## ARTICLE I

### DEFINITIONS

All words and phrases defined in Article I of the Original Agreement, Article I of the First Supplemental Agreement, and Article I of the Original Indenture shall have the same meaning in this First Supplemental Indenture. In addition, the following words and phrases shall have the following meanings:

"First Supplemental Agreement" means the First Supplemental and Amendatory Loan Agreement dated as of December 1, 1980, between Issuer and Company.

(End of Article I)

ARTICLE II  
THE SERIES 1980 BONDS

Section 2.01. Authorized Amount of Series 1980 Bonds. The total principal amount of Series 1980 Bonds that may be issued is hereby expressly limited to \$1,700,000, except as provided in Section 2.07 of the Original Indenture.

Section 2.02. Forms of Series 1980 Bonds. The Series 1980 Bonds in registered form shall be substantially in the form hereinabove set forth with such variations, omissions and insertions as are permitted or required by this First Supplemental Indenture.

Section 2.03. Issuance and Delivery of Series 1980 Bonds. The Series 1980 Bonds shall be designated "City of Fort Wayne Economic Development First Mortgage Revenue Bonds, Series 1980 (Central-Walter-Sunbelt Project)", shall, except as otherwise provided in Section 2.02 of the Original Indenture, be dated December 1, 1980, shall bear interest at a rate per annum equal to seventy percent (70%) of the Prime Interest Rate (interest being calculated on the basis of the number of days actually elapsed and a year containing 365 or 366 days) accruing to June 1 and December 1 in each year and being payable on or before June 15 and December 15 of each year until the principal sum is paid in full with the first interest payment to be made on June 15, 1981 and shall mature by December 1, 2000, being payable in principal installments on the dates and in the amounts set opposite each date as follows:

<u>Date</u>	<u>Principal Amount</u>	<u>Date</u>	<u>Principal Amount</u>
June 1, 1981	\$ 15,000	June 1, 1989	\$ 30,000
December 1, 1981	15,000	December 1, 1989	35,000
June 1, 1982	15,000	June 1, 1990	35,000
December 1, 1982	20,000	December 1, 1990	35,000
June 1, 1983	20,000	June 1, 1991	40,000
December 1, 1983	20,000	December 1, 1991	40,000
June 1, 1984	20,000	June 1, 1992	40,000
December 1, 1984	25,000	December 1, 1992	45,000
June 1, 1985	25,000	June 1, 1993	45,000
December 1, 1985	25,000	December 1, 1993	50,000
June 1, 1986	25,000	June 1, 1994	50,000
December 1, 1986	25,000	December 1, 1994	50,000
June 1, 1987	25,000	June 1, 1995	55,000
December 1, 1987	30,000	December 1, 1995	55,000
June 1, 1988	30,000	June 1, 1996	60,000
December 1, 1988	30,000	December 1, 1996	60,000

June 1, 1997	65,000	June 1, 1999	75,000
December 1, 1997	70,000	December 1, 1999	80,000
June 1, 1998	70,000	June 1, 2000	85,000
December 1, 1998	75,000	December 1, 2000	90,000

The Series 1980 Bonds shall be issued in the form of registered Bonds without coupons.

Upon the execution and delivery of this First Supplemental Indenture, Issuer shall execute and deliver to Trustee and Trustee shall authenticate the Series 1980 Bonds and deliver them to the purchasers as directed by Issuer as hereinafter in this Section provided.

Prior to the delivery by Trustee of any of the Series 1980 Bonds there shall be filed with Trustee:

1. A copy, duly certified by the Clerk of Issuer, of the ordinance adopted by Issuer, authorizing the issuance of the Series 1980 Bonds and the execution and delivery of this First Supplemental Indenture and the First Supplemental Agreement.

2. A copy, duly certified by the Partners of Company, of the resolutions adopted by Company, authorizing the execution and delivery of this First Supplemental Indenture, the First Supplemental Agreement and the Series 1980 Note or Notes.

3. Original executed counterparts of the First Supplemental Agreement, this First Supplemental Indenture and the originally executed Series 1980 Note or Notes.

4. A certificate of the Company that it has procured additional title insurance, or an endorsement to the original title insurance policy or a commitment for such title insurance in the form of an amendment to an ALTA owner-mortgagee title policy in the face amount of coverage of \$1,700,000 issued by a company duly authorized to issue same or copy of same.

5. The written opinion of counsel for Company expressing the conclusion that, in reliance upon said title insurance policy or commitment and a certificate of a partner of Company with respect to the proposed location of the Building and the operations to be conducted on the Project Site, Company has good and marketable title to the Building and Project Site (subject to Permitted Encumbrances).

6. A request and authorization to Trustee on behalf of Issuer and signed by the Clerk of Issuer to authenticate and deliver the Series 1980 Bonds to the purchasers therein identified upon payment to Trustee, but for the account of Issuer, of a sum specified in such request and authorization plus accrued interest thereon to the date of delivery. The proceeds of such payment shall be paid over to Trustee and deposited in the Bond Fund and the Construction Fund pursuant to Article V hereof.

7. The written opinion of the City Attorney expressing the conclusion that the execution, filing and recordation of this First Supplemental Indenture has been duly accomplished.

8. A written opinion by an attorney or firm of attorneys of recognized standing on the subject of municipal bonds, to the effect that the issuance of the Series 1980 Bonds and the execution thereof have been duly authorized, all conditions precedent to the delivery thereof have been fulfilled, and that the exemption from federal income tax of the interest on the Series 1979 Bonds will not be affected by the issuance of the Series 1980 Bonds being issued.

(End of Article II)

## ARTICLE III

### REDEMPTION OF BONDS BEFORE MATURITY

Section 3.01. Redemption Dates and Prices. The Series 1980 Bonds may be redeemed in integral multiples of \$5,000 by Issuer on any interest payment date in whole or in part (in inverse order of principal installments and by lot within principal installments in such manner as Trustee may determine) at one hundred percent (100%) of the outstanding principal amount thereof plus accrued interest to the redemption date.

If funds are deposited in the Bond Fund for redemption of Bonds pursuant to Sections 2.2(j), 3.6, 4.10, 4.11 or 5.2 of the Original Agreement or Sections 2.2(j) and 3.2 of the First Supplemental Agreement, all the Bonds shall be subject to redemption by Issuer on any interest payment date, in whole or in part (in inverse order of maturities and by lot within maturities in such manner as Trustee may determine but for purposes of the Series 1980 Bonds treating principal installments as maturities), at 100% of the principal amount thereof plus accrued interest to the redemption date.

(End of Article III)

ARTICLE IV  
GENERAL COVENANTS

Section 4.01. Performance of Covenants; Issuer and Company. Issuer covenants that it will faithfully perform at all times any and all covenants, undertakings, stipulations and provisions contained in this First Supplemental Indenture, in any and every Bond executed, authenticated and delivered hereunder and in all of its proceedings pertaining thereto. Issuer covenants that it is duly authorized under the constitution and laws of the State of Indiana, including particularly and without limitation the Act, to issue the Bonds authorized hereby and to execute this First Supplemental Indenture, to grant the security interest herein provided, to assign the Series 1980 Note or Notes and Agreement and to pledge the revenues and other amounts payable under the Series 1980 Note or Notes and Agreement hereby pledged in the manner and to the extent herein set forth; that all action on its part for the issuance of the Series 1980 Bonds and the execution and delivery of this First Supplemental Indenture has been duly and effectively taken, and that the Series 1980 Bonds in the hands of the holders and owners thereof and will be valid and enforceable obligations of Issuer according to the terms thereof and hereof.

Company covenants that it will faithfully perform at all times all covenants, undertakings, stipulations and provisions which it has expressly undertaken to perform in this First Supplemental Indenture.

Section 4.02. Instruments of Further Assurance; Ownership. To the extent permitted by law, Issuer covenants that it will do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered, such indentures supplemental hereto and such further acts, instruments and transfers as Trustee may reasonably require for the better assuring, transferring, conveying, pledging, assigning and confirming unto Trustee all and singular the rights assigned hereby and the revenues and other amounts payable under the Series 1980 Note or Notes and First Supplemental Agreement pledged hereto to the payment of the principal of, premium, if any, and interest on the Series 1980 Bonds. Issuer covenants and agrees that, except as in the Indenture and in the Agreement provided, it will not sell, convey, mortgage, encumber or otherwise dispose of any part of the revenues and receipts payable under the Note or Notes and Agreement or its rights under the Agreement.

Section 4.03. Rights Under First Supplemental Agreement and Series 1980 Note. The First Supplemental Agreement, a duly executed counterpart of which has been filed with Trustee, and the Series 1980 Note or Notes, delivered to Trustee, set forth the covenants and obligations of Issuer and Company, and reference is hereby made to the same for a detailed statement of said covenants and obligations of Company thereunder, and Issuer agrees that Trustee in its name may enforce all rights of Issuer and all obligations of Company under and pursuant to the Agreement or Note or Notes for and on behalf of the Bond-holders, whether or not Issuer is in default hereunder.

Section 4.04. Non-assignment of Notes. Pursuant to the Agreement, Issuer has assigned the Series 1980 Note or Notes to the Trustee. The Trustee represents that the Series 1980 Note or Notes are being purchased for the purpose of investment and not with view to the distribution or resale thereof. Issuer and Trustee understand that the Series 1980 Note or Notes have not been registered under the Securities Act of 1933, as amended, and must be held by Issuer and Trustee indefinitely unless the Series 1980 Note or Notes are subsequently registered under the Securities Act of 1933, as amended, or an exemption from such registration upon resale by Issuer or Trustee is available. Issuer and Trustee further understand and agree that the Company has no obligation to so register the Series 1980 Note or Notes or effect compliance with Regulation A or any other exemption under the Securities Act of 1933, as amended. Issuer and Trustee further understand and agree that since the Company is not subject to the reporting requirements of the Securities Exchange Act of 1934, as amended, and does not intend to make "publicly available" the information referred to under Rule 15c 2-11 under the Securities Exchange Act of 1934, as amended, it is unlikely that Issuer or Trustee will be able to make public resale of the Series 1980 Note or Notes.

(End of Article IV)

ARTICLE V  
DEPOSITS TO FUNDS

Section 5.01. Application of Proceeds of Series 1980 Bonds. Issuer will issue, sell and deliver to the initial purchasers thereof the Series 1980 Bonds and deposit the proceeds thereof with Trustee as follows:

- (i) in the Bond Fund a sum equal to the accrued interest, if any, to be paid by the purchasers of the Series 1980 Bonds, and
- (ii) in the Construction Fund the balance of the proceeds to be received from said sale.

(End of Article V)

## ARTICLE VI

### AMENDMENT OF AGREEMENT AND NOTE

Section 6.01. Amendments, etc., to Agreement and Notes Not Requiring Consent of Bondholders. Section 11.01 of the Original Indenture is amended as follows: Issuer, Company and Trustee may without the consent of or notice to the Bondholders consent to any amendment, change or modification of the Agreement or Note or Notes as provided (i) by the provisions of the Agreement, the Note or Notes and this Indenture, (ii) for the purpose of curing any ambiguity or formal defect or omission, (iii) so as to more precisely identify property or collateral or substitute or add additional property or collateral or additional rights or interests in property acquired in accordance with the provisions of the Agreement or Note or Notes, which property or collateral is to be subject to the lien of the Indenture, (iv) in connection with any other change therein which, in the judgment of Trustee, is not to the prejudice of Trustee or the Bondholders, or (v) in connection with the issuance of Additional Bonds hereunder. Subsequent to the issuance of Bonds and prior to their payment in full (or provision for the payment thereof having been made in accordance with the provisions of the Indenture) neither the Agreement nor the Note or Notes may be amended, changed, modified, altered or terminated without the written consent of the Trustee, which consent is not to be unreasonably withheld.

(End of Article VI)

## ARTICLE VII

### MISCELLANEOUS

Section 7.01. Severability. If any provision of this First Supplemental Indenture shall be held or deemed to be or shall, in fact, be illegal, inoperative or unenforceable, the same shall not affect any other provision or provisions herein contained or render the same invalid, inoperative or unenforceable to any extent whatever.

Section 7.02. Notices. Any notice, request, complaint, demand, communication or other paper shall be sufficiently given and shall be deemed given when delivered or mailed by registered or certified mail, postage prepaid, or sent by telegram, addressed as follows: if to Issuer, Attention: Clerk, City of Fort Wayne, City Building, Fort Wayne, Indiana 46802; if to Trustee, Attention: Trust Department, American Fletcher National Bank and Trust Company, 111 Monument Circle, Indianapolis, Indiana 46204; and if to Company, Attention: President, Sunbelt Hospitality Corporation, 4646 Poplar Avenue, Suite 335, Memphis, Tennessee 38177 and to Central Life Assurance Company, 611 Fifth Avenue, Des Moines, Iowa 50306. A duplicate copy of each notice required to be given hereunder by Trustee to either Issuer or Company shall also be given to the other. Issuer, Company and Trustee may designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

Section 7.03. Counterparts. This First Supplemental Indenture may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 7.04. Applicable Provisions of Law. This First Supplemental Indenture shall be governed by and construed in accordance with the laws of the State of Indiana.

Section 7.05. Captions. The captions or headings in this First Supplemental Indenture are for convenience only and in no way define, limit or describe the scope or intent of any provisions or Sections of this First Supplemental Indenture.

(End of Article VII)

IN WITNESS WHEREOF, the City of Fort Wayne, Indiana, has caused these presents to be signed in its name and behalf by the Mayor and its official seal to be hereunto affixed and attested by its Clerk, and Central-Walter-Sunbelt has caused these presents to be signed in its name and behalf by its General Partners, and to evidence its acceptance of the trusts hereby created American Fletcher National Bank and Trust Company, Indianapolis, Indiana, has caused these presents to be signed and sealed in its name and behalf by its duly authorized officers, as of the day first above written.

CITY OF FORT WAYNE, INDIANA

(SEAL)

Attest:

Charles W. Westerman, Clerk

CENTRAL-WALTER-SUNBELT

By: Lartnec Investment Co.,  
a General Partner  
611 Fifth Avenue  
Des Moines, Iowa 50306

By: Hervey A. Feldman, President  
Sunbelt Hospitality Corporation,  
a General Partner  
4646 Poplar Avenue, Suite 335  
Memphis, Tennessee 38117

AMERICAN FLETCHER NATIONAL BANK  
AND TRUST COMPANY

By

John G. Egger, Vice President  
and Trust Officer

(SEAL)

Attest:

John H. Pease, Assistant Vice  
President and Trust Officer

This instrument prepared by Bruce A. Polizotto, Ice Miller  
Donadio & Ryan, 10th Floor, 111 Monument Circle, Indianapolis,  
Indiana 46204.

EXHIBIT A

(To First Supplemental and Amendatory Mortgage and Indenture of Trust dated as of December 1, 1980, among the City of Fort Wayne, Indiana, Central-Walter-Sunbelt and American Fletcher National Bank and Trust Company, Indianapolis, Indiana.)

THE ECONOMIC DEVELOPMENT FACILITIES

Project Description

The Project involves the development of a full service Holiday Inn Hotel in downtown Fort Wayne. The proceeds will be used for acquisition, extensive renovation and expansion of an already existing hotel structure. The hotel itself will include 230 guest rooms, several restaurants, and meeting facilities with a total capacity for 650 people. The hotel will also have health and recreation facilities including a swimming pool, sauna and gymnastic facilities. The Project will be located on the real property described under Project Site and will be furnished and equipped with the items listed under Project Equipment.

Project Site

Lot #93, Lot #94, Lot #95, Lot #96 and the East one-half of Lot #97, and the alley between Lot #95 and Lot #96 as vacated by General Ordinance G-90-70, all in Hanna's Addition as recorded in the plat thereof in the Office of the Recorder of Allen County, Indiana;

Also, the East one-half of Lot #129, Lot #130, Lot #131, Lot #132 and the vacated alley between Lot #129 and Lot #130, all in Hanna's Addition as recorded in the plat thereof in the Office of the Recorder of Allen County, Indiana, EXCEPT the following real estate deeded to the City of Fort Wayne, for roadway purposes:

Commencing at the Southeast corner of Lot #132 in Hanna's Addition; thence North 20 feet along the East property line; thence Southwest 28.3 feet to a point on the South property line which is 20 feet West of the East property line; thence East along the South property line to the point of beginning, an area of 200 square feet.

PROJECT EQUIPMENT

Room equipment, furniture,  
and furnishings\*

100 TYPICAL ROOMS, KING SIZE BED

Furniture, "Antiqua" American of Martinsville  
504-341 Headboard, 6/6, wood finish  
505-51 Writing desk, painted finish  
505-8 Night stand, painted finish (2 required)  
505-25 Uniplex, painted finish  
221 Antique gold mirror  
11-489 Chair, wood finish (2 required)  
505-895 Octagonal table, painted finish  
504-9 Desk chair, slip seat

Vanity stool for bathroom

Lamps (4 required)

Television

100 TYPICAL ROOMS, DOUBLE QUEEN BEDS

Furniture, "Antiqua" American of Martinsville  
504-321 Headboard, 4/6-5/0, wood finish (2 required)  
505-51 Writing desk, painted finish  
505-25 Uniplex, painted finish  
221 Antique gold mirror  
11-489 Chair, wood finish (2 required)  
505-895 Octagonal table, painted finish  
504-9 Desk chair, slip seat

Vanity stool for bathroom

Lamps (4 required)

Television

\* The described equipment is for detailing quantities and quality.

Substitute equivalent equipment and furnishings may be used.

Page 2, Schedule "A", Project Equipment

10 CORNER ROOMS, DOUBLE BED

Furniture, "Antiqua" American of Martinsville  
504-321 Headboard, wood finish  
505-25 Uniplex, painted finish  
505-8 Nightstands (2 required), painted finish  
11-489 Chair, wood finish  
221 Antique gold mirror

Vanity stool for bathroom

Lamps (3 required)

Television

10 CORNER ROOMS, SOFA BED

Furniture, "Antiqua" American of Martinsville  
505-25 Uniplex, painted finish  
221 Antique gold mirror  
505-8 Nightstand, painted finish (2 required)  
11-489 Chair, wood finish  
Furniture, Motif, Inc.  
1280 Sofa bed

Vanity stool for bathroom

Lamps (3 required)

Television

10 SUITE PARLORS

Furniture, "Estate" American of Martinsville

511-495 Wing chair

2687-788 Bar

2687-543 Bar stool(2 required)

2687-602 End table (2 required)

511-34 Lounge chair (4 required)

Furniture, miscellaneous

Game table

Furniture, Motif

1257 Queen sofa bed

Kitchen equipment, Rapids, Inc.

7-R-290 2.2 cubic foot refrigerator to be placed in  
#2687-788 bar, American of Martinsville

Wall decor (4 items)

Lamps (4 required)

Television

10 SUITE BEDROOMS

Furniture, "Estate" American of Martinsville

221 Antique gold mirror

2487-511 Side chair

511-25 Uniplex

511-18 Desk

511-496 Bedroom Chair

511-8 Night table (2 required)

Furniture, Swan Brass

1080 "Florentine" 6/6 headboard

Vanity stool

Wall decor (1 required)

Lamps (4 required)

Television

11 TYPICAL CORRIDORS

Light fixture

M-5231 Thomas Industries wall mounted fixture

## MECHANICAL ROOM

Electric water heaters and storage tanks (2); "Pressure Vessel Co. "Model #256GAIH 1575, 1575 gallon capacity, 49.5 GPH recovery at 100F rise.

Water chiller; "Worthington" reciprocating package type, Model #BOX -0838-092-0204.

Fire pump; "Fairbanks - Morse", 30 H.P., Model #5874A and control cabinet.

Booster pump system; House pump #1, vertical, "Weil", 10 H.P., Model #VEML.

House pump #2, horizontal, 30 H.P., "Weil" Model #AYM.

House pump #3, horizontal, 30 H.P. "Weil" Model #AYM

Sump pump - submerged.

Sewage pumps (2) - vertical; "Weil" Model #CSA3707, 3 H.P.

Chilled water circulating pumps (3); pump #1, horizontal, "Weinman" Model #3GB, 3 H.P., 222 GPM @ 30' head.

Pump #2, horizontal, "Weinman" Model #4ALKB-C, 1/2 H.P.

Pump #3, inline, Bell & Gossett, Model #3.

Four walk-in cooler/freezer units in basement storage area.

Lockers in womens and mens locker rooms.

Heavy duty commercial washers and dryers.

Two General Electric French Fryers.

Two General Electric 36" Grills.

Johnson upright refrigerator, 48" wide.

Foster upright 24" freezer.

Hobart commercial dishwasher.

Scotsman 6' high, 6'wide icemaker.

Johnson 10' wide 4 door cooler.

Champion commercial dishwasher.

Steam Chef steamer.

General Electric 3-bay 48" wide oven.

General Electric grill and french fryer 48".

Worthington - compressors, evaporators, and motors.

To be installed and/or purchased:

Food disposals  
Hoods, vents, fans in kitchens  
Office equipment  
Two Bars  
Disco sound and lighting equipment  
Ice Makers - each floor  
Maid carts, sweepers, warming ovens  
Misc. housekeeping and food-serving equipment  
China, silver, coffeemakers, serving carts  
Recreation equipment  
Hot water heaters

STATE OF INDIANA )  
COUNTY OF ALLEN ) SS:

Before me, the undersigned, a notary public in and for said county and state, personally appeared Winfield Moses, Jr. and Charles W. Westerman, personally known to me to be the Mayor and Clerk, respectively, of the City of Fort Wayne, State of Indiana, and acknowledged the execution of the foregoing Mortgage and Indenture of Trust for and on behalf of said City.

WITNESS my hand and notarial seal this \_\_\_\_ day of December, 1980.

Notary Public

(SEAL)

My commission expires:

My county of residence is:

STATE OF INDIANA )  
 ) SS:  
COUNTY OF \_\_\_\_\_ )

WITNESS my hand and notarial seal this \_\_\_\_\_ day of December, 1980.

Notary Public

(SEAL)

My commission expires: \_\_\_\_\_ My county of residence is: \_\_\_\_\_

STATE OF INDIANA )  
                    ) SS:  
COUNTY OF MARION )

Before me, the undersigned, a notary public in and for said county and state, personally appeared John G. Egger and John H. Pease, personally known to me to be a Vice President and Trust Officer and Assistant Vice President and Trust Officer, respectively, of American Fletcher National Bank and Trust Company, Indianapolis, Indiana, and acknowledged the execution of the foregoing Mortgage and Indenture of Trust for and on behalf of said Bank.

WITNESS my hand and notarial seal this \_\_\_\_\_ day of December, 1980.

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Notary Public

(SEAL)

My commission expires:

My county of residence is:

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